

**REMARKS**

**Summary Of The Office Action & Formalities**

**Status of Claims**

Claims 1, 2 and 4-12 are all the claims pending in the application. By this Amendment, Applicant is amending claims 11 and 12 to correct a minor grammatical error. No new matter is added.

**Art Rejections**

Claims 1, 2 and 4-12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Laauwe (US 3,990,640).

Applicant respectfully traverses.

**Claim Rejections - 35 U.S.C. § 103**

*Claims 1, 2 and 4-12 Over Laauwe (US 3,990,640).*

In rejecting claims 1, 2 and 4-12 over Laauwe (US 3,990,640), the grounds of rejection state:

Laauwe discloses a fluid product spray head comprising all the featured elements of the instant invention, note obturator 17, sleeve 7/9 and at least one non-radial channel 31, except for the at least one non-radial channel extending obliquely in the lateral wall of the sleeve. It would have been obvious to one having ordinary skill in the-art at the time the invention was made to have the at least one non-radial channel extend obliquely in the lateral wall of the sleeve of Laauwe, since such a modification would facilitate(i.e. accelerate) the flow through the channels prior to entrance into the swirling chamber and would enhance the expansion and swirling within the chamber.

Office Action at page 2.

Regarding Applicant's previous arguments, the Examiner states:

Applicant's arguments filed November 8, 2007 have been fully considered but they are not persuasive.

Applicant argues that claim 1 requires an oblique non-radial channel in the lateral wall of the sleeve, **which is not conditioned on(i.e. independently of) the position of the closure element(obturator)**, note that as currently presented and amended the claim does not require the condition in which the position of the obturator in order to meet the claim limitations and therefore , the argument is considered moot.

Office Action at page 3. Applicant disagrees.

Above, the Examiner argues that Applicant's previous arguments are moot, since the claim does not recite the position of the closure element. However, specifying the position of the closure element in the claim is not required for Applicant's argument to be pertinent.

There appears to be no dispute that Laauwe does not disclose the claimed oblique channel. Applicant's previous arguments regarding the position of the closure element had to do with *whether or not it would have been obvious to modify Laauwe*. Applicant argued that such a modification would ***not*** have been obvious, as the alleged modification would have ***destroyed the fluid-tight requirement of that structure***. That is, Laauwe teaches away from the modification, ***regardless of the position of the closure element***. The grounds of rejection do not take into account this important fact.

To the contrary, the grounds of rejection only allege "such a modification would facilitate (i.e. accelerate) the flow through the channels prior to entrance into the swirling chamber and would enhance the expansion and swirling within the chamber." However, no support is given for this statement and, as explained in Applicant's previous response, such a structure is not possible in Laauwe. Simply put, it could not have been obvious to modify Laauwe in a way that would **destroy the leak-tightness of the device**.

**Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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**23373**

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